

MINUTES OF THE
IDAHO BOARD OF PHARMACY

November 7, 2003

Chairperson Marilyn Silcock Pharm D. called the meeting to order at 9:00 A.M. In attendance were Board members Frank Casabonne R. Ph.; Kitty Gurnsey; Dwayne Sheffler R.Ph. and Mike Merrill R.Ph. Also in attendance were Richard Markuson, Executive Director, Fred Collings, Senior Investigator; Jan Atkinson, Senior Compliance Officer; Kent Nelson, Deputy Attorney General and Cheri Bush, Deputy Attorney General.

Mike Merrill made a motion for approval of the minutes from the August 27 & 28, 2003 Board meeting. Motion seconded by Frank Casabonne. Motion unanimously carried.

Regarding citation #2144 issued to Vicki Potts; both Vicki Potts and Andrea Kuhner, District Manager for Walgreens were present for the citation review. Ms Potts read a prepared statement and submitted it for inclusion in the Board record. The mother of the patient, Julianna Davidsmeier addressed her concerns on the procedural aspects of the error and how the medication was ultimately mislabeled. Frank Casabonne brought up the involvement of the drive-up window and reminded the Board of their previous concerns with counseling feasibility and staffing issues. Neither Ms. Potts nor Ms. Davidsmeier felt that the drive-up window played a significant part in the error. Mike Merrill made a motion for a \$200.00 fine and an additional \$100.00 for costs associated with the complaint investigation. Frank Casabonne seconded the motion. Motion unanimously carried.

Regarding citation #1279 issued to Dan Fuchs; the Board offered Mr. Fuchs a stipulation in lieu of the citation, whereby Mr. Fuchs agrees to the facts involving the Internet contracting and filling prescriptions obtained without a valid patient/client relationship and which resolves all matters regarding the Internet investigation. Mr. Fuchs also agreed to pay a fine of \$500.00 and any additional costs associated with the investigation. Mike Merrill made a motion to accept the stipulation in lieu of the citation. Kitty Gurnsey seconded the motion. Frank Casabonne voted no. Motion carried. The Board Chairperson directed Kent Nelson to prepare the new stipulation agreement for signatures.

Gordon Milford PIC of Albertsons Pharmacy and Courtney Cook, registered technician with Albertsons were present to address the citations issued to them for employing an unregistered technician and being an unregistered technician in the pharmacy. Regarding citation 1359 issued to Gordon Milford; Dwayne Sheffler made a motion to impose a fine of \$100.00. Motion seconded by Kitty Gurnsey. Motion unanimously carried. Regarding citation #1358 issued to Courtney Cook; Mike Merrill made a motion to impose a fine of \$50.00. Motion seconded by Kitty Gurnsey. Dwayne Sheffler voted no. Motion carried.

Regarding citation #2146 issued to John Weimer R.Ph.; after reviewing the information provided to the Board Frank Casabonne called for further investigation by Board staff into

the length of time between the reported incident and specific refills in question. Dwayne Sheffler seconded the motion. Motion carried.

Fred Collings and Cheri Bush, Deputy attorney General presented the Stipulation and Board Order on Paul Allen Frisk, R.Ph. The Board requested all reference to “bi-monthly” be removed and the statement “at least twice for each calendar month” be substituted. Frank Casabonne made a motion to accept the Stipulation with the above stated corrections. Kitty Gurnsey seconded the motion. Motion carried unanimously.

Regarding citation # 1360 issued to Wal-Mart Pharmacy 1526CP and citation #2149 issued to Wal-Mart Pharmacy 1525CP both for failure by Wal-Mart management to appoint a PIC; Ben Thankachan, Director of Pharmacy Professional Services and Kris Wilson, Pharmacy District Manager, appeared representing Wal-Mart. Mike Merrill made a motion to fine Wal-Mart \$200.00 on citation #1360. Motion seconded by Frank Casabonne. Motion unanimously carried. Mike Merrill made a motion to fine Wal-Mart \$200.00 on citation #2149. Motion seconded by Frank Casabonne. Motion unanimously carried.

Wal-Mart representatives also requested the Board’s interpretation of Board Rule 496.04 and the reference to a “bound” book. The Board members agreed that Wal-Mart pharmacies could use their electronically generated inventory report as long as they have it professionally bound. The Board also stated that all Wal-Mart pharmacies should be using the same method for maintaining their inventory records.

Sara Cummings, Pharmacy Technician, appeared before the Board requesting a change to her Stipulation due to the financial hardship it has imposed on her. Kitty Gurnsey requested unanimous consent from the Board members not to make changes to the existing Stipulation. Hearing no objection she recommended that the Board leave the Stipulation for Sara Cummings as written.

Regarding citation #2140 issued to Mike McGee; Pursuant to a request by Mr. McGee to postpone the citation review Frank Casabonne made a motion to delay the citation until the following Board meeting and to notify Mr. McGee that there would no further postponement. Motion seconded by Mike Merrill. Motion unanimously carried.

Alan Bell appeared before the Board to request reinstatement of his pharmacist license. After reviewing information provided by Mr. Bell the Board concurred that the required documentation was incomplete and they would not approve his return to pharmacy at this time.

Elmo Alemao requested that the Board allow him to complete his licensure process. Frank Casabonne made a motion to allow Mr. Alemao to take his law exam while he is in Boise but not issue his license until such time as he completes 120 hours of internship, to be completed before June 30, 2004. Kitty Gurnsey seconded the motion. Motion unanimously carried.

Regarding citation # 2143 issued to Riddleys Pharmacy in Jerome; Frank Casabonne made a motion to fine Riddleys \$1,000.00 and give them until December 1st to complete the follow-up remodel. Motion seconded by Dwayne Sheffler. Mike Merrill voted no on the motion. Motion carried.

Speed Scripts Inc. requested Board approval for an out-of-state- mail service pharmacy registration that was previously denied. Based on the information provided to the Board their request was denied. The Board directed Mr. Nelson to inform Speed Scripts Inc. of the Board's decision.

The Board reviewed information from NABP on implementation of the MPJE. The Board opted to keep the paper and pencil law exam in place at this time for Idaho applicants.

Frank Casabonne made a motion to accept the Board of Medicine's Stipulation and Order for Warren Dopson M.D. Dwayne Sheffler seconded the motion. Motion unanimously carried.

Mike Merrill made a motion to revoke Michael D. Roberts's license to practice pharmacy. Motion seconded by Kitty Gurnsey. Motion unanimously carried.

Tommy Roberts representing Cardinal Health discussed a new service for hospital pharmacies called Rxe-source. The service allows hospitals to transmit medication orders to an off-site Pharmacy Service Centers where pharmacies can review, enter and approve the orders during times the rural pharmacy is closed. The Pharmacy Service Centers are office-based licensed pharmacies staffed with experienced hospital pharmacists. Frank Casabonne acknowledged that Idaho Telepharmacy's request and the Cardinal Health program are similar and Kent Nelson should move forward in his analysis of a pilot program to address compliance concerns for these proposals. Mike Merrill seconded the motion. Motion unanimously carried.

Elicia Zahm, the mother of a young child with severe asthma, requested the Boards support for the Asthma Coalition's efforts to draft legislation that would assist children with asthma. The Coalition is working with a local Representative to draft legislation that would prevent schools from refusing to allow students to carry their inhalers while on school property. The Board voted unanimously to support the legislation proposal.

The Idaho Primary Care Association presented two issues to the Board for their response. Regarding the first issue of dispensing of pre-packaged medications from a local pharmacy, by a practitioner at the time of the patient visit; the practitioner, or a clinician under direct supervision of the practitioner, could write the patient's name, practitioner's name and instructions for use on the label. Regarding the second issue of a practitioner dispensing pre-labeled/prepackaged medication provided by a local pharmacy and allowing the pharmacy to bill third party and act as the provider for billing purposes; the pharmacy is not the provider of those medications, they are being dispensed by the practitioner and cannot be issued a prescription number or billed to a third-party provider by the local pharmacy.

At 4:38 P.M. Mike Merrill moved to go into Executive Session for matters concerning exempt public records. Chairperson Dr. Silcock identified Idaho Code Section 67-2345(d) to authorize the session. Frank Casabonne seconded the motion. Motion unanimously carried. At 4:50 P.M. Frank Casabonne moved to come out of Executive Session. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding the CE audit results that were performed on over one-hundred registered pharmacists: the Board directed staff to send letters to those pharmacists that were deficient and in lieu of formal disciplinary action impose a payment of \$50.00 for each incomplete credit; require double the amount of any missing credits and also the annual required amount of 15 hours; all to accompany their pharmacist license renewal for the 2004-2005 renewal period.

The next Board Meeting was scheduled for January 16, 2004, to be held in Boise at the AmeriTel Inn, Town Square Mall.

Mike Merrill made a motion to adjourn the meeting at 5:15 P.M. Dr. Silcock seconded the motion. Motion carried.

Minutes respectfully submitted by Jan Atkinson.

Chairperson

Vice-Chairperson

Member

Member

Member

Executive Director

